

REMARKS/ARGUMENTS

Responsive to the Final Office Action dated August 10, 2007, Claims 30-41 and 66-99 have been previously withdrawn and Claims 2, 29, 43, and 65 have been previously canceled. Accordingly, Claims 1, 3-28, 42, and 44-64 remain pending for prosecution with Claims 1 and 42 being independent.

Claims 1, 3-28, 42 and 44-64 have been finally rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,414,838 to Kolton in view of U.S. Patent No. 6,920,426 to Takechi. For the following reasons, Applicant respectfully requests reconsideration and withdrawal of this rejection.

When determining the question of obviousness, underlying factual questions are presented which include (1) the scope and content of the prior art; (2) the level of ordinary skill in the art at the time of the invention; (3) objective evidence of nonobviousness; and (4) the differences between the prior art and the claimed subject matter. Graham v. John Deere Co., 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966). Moreover, with regard to the last prong of the *Graham* inquiry, “[t]o determine whether there was an apparent reason to combine the known elements in the way a patent claims, it will often be necessary to look to interrelated teachings of multiple patents; to the effects of demands known to the design community or present in the marketplace; and to the background knowledge possessed by a person having ordinary skill in the art. To facilitate review, this analysis should be made explicit.” KSR International v. Teleflex Inc., 127 U.S. 1727 (2007).

Applicant does not contest that the references that have been cited and relied on by the Examiner have at least marginal pertinence to the particular problem(s) solved by the present invention in that the references disclose systems for providing information via a computer

network. Stratoflex, Inc. v. Aeroquip Corp., 713 F.2d 1530, 1535, 218 USPQ 8781, 8786 (Fed. Cir. 1983).

The person of ordinary skill in the art is a hypothetical person who is presumed to know the relevant prior art. Custom Accessories, Inc. v. Jeffrey-Allan Indus., Inc., 807 F.2d 955, 962, 1 USPQ2d 1196, 1201 (Fed. Cir. 1986). The level of ordinary skill in the art of drug computer programming may be determined by looking to the references of record. In re GPAC, Inc., 57 F.3d 1573, 35 USPQ2d 1116 (Fed. Cir. 1995). The references of record in this case reveal that a moderate level of sophistication in computer programming is associated with one of ordinary skill. Thus, Applicant submits that, as substantiated by the cited references, those with a bachelor's degree in computer science or significant experience in the computer programming industry or the like would most likely be a person with ordinary skill in the this field of endeavor.

With respect to objective evidence of nonobviousness, Appellant submits that the record supports the conclusion that there are long-felt but unsolved needs met by the present invention. The present invention is directed to the particular problem of providing an efficient and effective method of providing reliable and unbiased investment information to investors. In particular, gathering, summarizing, assigning a reliability code, storing, and making pertinent information available over the Internet to investors.

Finally, prima facie obviousness requires that there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references. This motivation-suggestion-teaching test informs the Graham analysis. "To reach a non-hindsight driven conclusion as to whether a person having ordinary skill in the art at the time of the invention would have viewed the subject

matter as a whole to have been obvious in view of multiple references,” there must be “some rationale, articulation, or reasoned basis to explain why the conclusion of obviousness is correct.” In re Kahn, (Fed. Cir. 2006). The recent *KSR International* decision by the Supreme Court has not eliminated the motivation-suggestion-teaching test to determine whether prior art references have been properly combined. Rather, in addition to the motivation-suggestion-teaching test, the Court discussed that combinations of known technology that are “expected” may not be patentable. Stated in the affirmative, therefore, combinations are nonobvious and patentable if unexpected. In the present application, no single prior art reference nor any combination thereof meets the claimed limitations of Applicant’s invention.

With regard to Claims 1, 7-28, 42 and 48-64, it was asserted in the Office Action that “Kolton teaches a computer-implemented method for providing information over a communication network to a computer user, said method comprising: gathering a plurality of information items relating to a subject, said information items including data items and content items, wherein each of said data items includes the value of an attribute associated with said subject for a particular date and each of said content items includes a statement summarizing an occurrence for a particular data (Abstract, Figs. 1, col. 1, lines 15-21; col. 2, lines 25-38); storing said information items (Fig. 2); and creating an electronic page containing in part a graphic representation that includes a number of data points corresponding to at least a portion of said data items, said data points arranged by date or date range (Fig. 9A-9E).” It was admitted that the Kolton “does not explicitly teach assigning a reliability indicator to each of said content items.” However, it was further asserted that “Takechi teaches assigning a reliability indicator to each of said content items (Abstract).” Therefore, the Office Action concludes that “[i]t would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kolton

to include this feature. One would have been motivated to do so in order to allow information users to estimate the factuality and reliability of the information.”

Applicant respectfully traverses these assertions and submits that the Office Action has failed to demonstrate the suggestion or motivation, present either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings as required by the first criteria of obviousness. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 16 USPQ2d 1430 (Fed. Cir. 1990). Since both Kolton and Takechi, individually and in combination, fail to teach or suggest Applicant’s invention as claimed, Applicant respectfully submits that the combination is improper and fails to teach or suggest the present invention.

In particular, Kolton fails to teach or suggest all of the elements of the claimed invention. Applicant’s invention provides for gathering a plurality of information items relating to a subject (e.g., a company or industry), the information items including data items and content items, wherein each of the data items includes the value of an attribute (e.g., share price, share trading volume) associated with the subject for a particular date and each of the content items includes a statement summarizing an occurrence (e.g., publication of an article concerning the company, publication of a document concerning the company) for a particular date. The Examiner asserts that “Kolton clearly teaches this limitation see abstract, Figs. col. 1, lines 15-21; col. 2, lines 25-38.” However, the abstract, figures, and cited passages of Kolton do not teach or suggest associating a company’s share price on a particular date with statements summarizing an article published concerning the company. Rather, Kolton merely teaches a computer system that allows a user to easily search historical information for particular stock or bond prices such as

dates of political elections, dates of issuance and value of company earning reports, the consumer price index, and the like.

It is acknowledged that Kolton fails to teach or suggest a second element of Applicant's claimed invention, namely, assigning a reliability indicator to each of the content items. Takechi is therefore asserted to provide this missing limitation and render the present invention obvious. However, the Examiner's proposed combination uses both Kolton and Takechi in a way that neither reference was intended or designed to be used. See In re Gordon, 733 F.2d 900 (Fed. Cir. 1984). Since Kolton merely provides factual historical information for particular stock or bond prices such as dates of political elections, dates of issuance and value of company earning reports, the consumer price index, and the like, there is no need to provide reliability indicators for these content items. The proposed modification of Kolton's system of providing factual historical information for certain dates therefore impermissibly requires a substantial reconstruction and redesign of the elements of Kolton and it also completely changes Kolton's principles of operation. See In re Ratti, 270 F.2d 810 (CCPA 1959). In fact, rather than teaching or suggesting the claimed invention, Kolton actually teaches away from the present invention in that Kolton specifically does not provide non-historical information about certain data points. U.S. v. Adams, 383 U.S. 39 (1966).

Moreover, Takechi also fails to teach or suggest providing data items that include the value of an attribute associated with a subject for a particular date and each of the content items including a statement summarizing an occurrence for a particular date and assigning a reliability indicator to each content item. It is asserted by the Office Action that, per the Abstract, Takechi teaches assigning a reliability indicator to each of the content items. The Abstract provides for "[a]n information ranking system and an information ranking method as well as a computer

readable recording medium recorded with an information ranking program, capable of ranking information resources on the Internet to thereby allow information users to estimate the factuality and reliability of the information.” However, a thorough reading of Takechi demonstrates that Takechi does not teach assigning reliability indicators to content items that include a statement summarizing an occurrence (e.g., publication of an article concerning the company, publication of a document concerning the company) for a particular date. Rather, Takechi merely teaches providing users the ability to rank individual web pages. Therefore, Takechi also fails to teach or suggest Applicant’s invention as claimed.

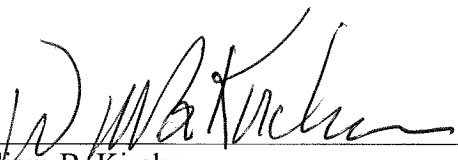
The Office Action also acknowledges that both Kolton and Takechi fail to teach or suggest the use of color, number, letter and typeface indicators as claimed in Claims 3-6 and 44-47. The Office Action then asserts that Official Notice is being taken that these indicators are old and well known. Applicant submits that it is not well known to provide reliability indicators using colors, numbers, letters or typeface indicators to differentiate the reliability indicators. In response to Applicant’s previous objection to the Official Notice, the Examiner has cited Borgia, Auer and Monteleone as providing support. However, nowhere in any of these references is there any mention of reliability indicators. Applicant therefore respectfully that, because both Kolton and Takechi fail to teach or suggest the limitations of independent Claims 1 and 42 and, in particular, those of Claims 3-6 and 44-47 and because the Official Notice is still not supported, the rejections of these claims should be withdrawn.

Accordingly, both Kolton and Takechi fail to teach or suggest the combination asserted by the Examiner. Further, both of the references fail to teach or suggest all of the elements of independent Claims 1 and 42 and no resultant system and method for providing information over a communications network as claimed by Applicant could have been created from these

references that would meet the limitations of Claims 1 and 42. Even if such a combination were possible, the Examiner's combination would require a substantial reconstruction and redesign of the elements of both Kolton and Takechi and would also change their principles of operation. Furthermore, one of ordinary skill in the art would not have arrived at Applicant's claimed invention because Applicant's invention would not be an "expected" result of the combination of these references since both references, individually and in combination, fail to meet all the limitations of the subject claim. Therefore, Applicant's independent Claims 1 and 42 and the claims depending therefrom are nonobvious.

Applicant respectfully submits that the present application is now in condition for allowance and such is courteously solicited. If any issue regarding the allowability of any of the pending claims in the present application could be readily resolved, or if other action could be taken to further advance this application such as an Examiner's amendment, or if the Examiner should have any questions regarding the present amendment, it is respectfully requested that the Examiner please telephone Applicant's undersigned attorney in this regard. The Commissioner is hereby authorized to deduct any required fees or credit any overpayments in this application to Deposit Account No. 11-0160.

Respectfully submitted,



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